

that the Floor Official functions that Market Performance Committee members may perform include acting pursuant to rules related to fast markets and RAES. Again, when circumstances arise which might require the declaration of a fast market, it is important for timely decisions to be made regarding the declaration of a fast market and other related decisions specified in Rule 6.6. CBOE believes that it could be detrimental to a fair and orderly market to delay action until a Floor Official from the Floor Officials Committee is found to make such decisions when members of the Market Performance Committee might already be present at the trading post.

The Exchange believes that the proposed rule changes are consistent with and further the objectives of Section 6(b)(5) of the Act, in that the rule changes are designed to perfect the mechanisms of a free and open market and to protect investors and the public interest by enabling any two Floor Officials to evaluate and consider market conditions and circumstances in determining whether to suspend the firm quote requirement of Rule 8.51 during a fast market. The proposed rule changes clarifying the powers of Market Performance Committee members and specifying the powers Floor Officials may invoke during a fast market are also consistent with and further the objectives of Section 6(b)(5) of the Act, in that they too are designed to perfect the mechanism of a free and open market and to protect investors and the public interest. The proposed rule change regarding the authority of the Control Room to suspend the firm quote requirement when there has been a system malfunction affecting the dissemination or updating of quotes is also consistent with and further the objectives of Section 6(b)(5) of the Act, in that the change is designed to perfect the mechanism of a free and open market.

The Exchange also believes that the proposed rule changes, collectively, are consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR-CBOE-95-52 and should be submitted by November 15, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

⁴ 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36384; File No. SR-DTC-95-19]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Compliance With Confirmation Disclosure Requirements Through the Use of the Institutional Delivery System

October 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 4, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC proposes to make additions to its Participant Operating Procedures² to enable broker-dealers that use DTC's Institutional Delivery ("ID") system for generating confirmations for their customer transactions to comply with certain disclosure requirements of Rule 10b-10 under the Act.³

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in section (A), (B),

¹ 15 U.S.C. § 78s(b)(1) (1988).

² The additions to DTC's Participant Operating Procedures, Section M—ID System, are attached as exhibit 2 to DTC's filing (File No. SR-DTC-95-19) and are available for review in the Commission's Public Reference Section.

³ 17 CFR 240.10b-10 (1994).

and (C) below, of the most significant aspects of such statements.⁴

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1994, the Commission adopted amendments to rule 10b-10.⁵ Subsequently, the Division of Market Regulation issued a no-action letter to the Public Securities Association ("PSA") on behalf of its members and all other brokers and dealers temporarily exempting them from certain disclosure requirements of paragraphs (a)(7), (a)(8), and (a)(9) of Rule 10b-10 until November 1, 1995.⁶

The purpose of this proposed rule change is to enable broker-dealers that use DTC's ID system for generating confirmations for their customer transactions to comply with the following three disclosure requirements upon the expiration of the temporary exemption.

(1) Amended Rule 10b-10 requires broker-dealers that are not members of the Securities Investor Protection Corporation ("SIPC") to disclose that fact in trade confirmations. A broker-dealer using the ID system to send confirmations can disclose that fact by including a statement such as "[Name of broker-dealer] is not a member of SIPC" in the Special Instructions field of trade data submitted to the ID System. A broker-dealer can enter up to 256 characters of free-form text in the Special Instructions field to be included in the confirmation.

(2) Amended Rule 10b-10 requires broker-dealers to disclose in the case of a debt security other than a government security that the security is not rated by a nationally recognized statistical rating organization if that is the case. A broker-dealer using the ID system can disclose that fact by entering "Not Rated" or "N/R" in the Special Instructions field. The proposed rule change adds a statement that defines the codes "Not Rated" or "N/R" in DTC's Procedures for the ID system in the material describing the Special Instructions field.

(3) Amended Rule 10b-10 requires broker-dealers to disclose in confirmations for asset-backed securities that are continuously subject to prepayment that the yield of the

security depends on the rate of prepayments and that certain information concerning the factors that affect yield will be furnished upon written request. By using one of several acronyms, a broker-dealer using the ID system can enter data in the Security Type field to identify the security as one of several types of securities that meet the Rule 10b-10 definition of asset-backed securities. The proposed rule change adds a provision to DTC's Procedures for the ID System in the material setting forth the provisions deemed to be part of a confirmation stating that when one of several designated acronyms appears in the Security Type field of the ID confirmation, the required disclosure is deemed to be a part of the ID confirmation for that transaction.

DTC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) ⁷ of the Act and the rules and regulations thereunder applicable to DTC because the proposed rule change will facilitate the confirmation of transactions through the use of DTC's ID system. DTC states that the proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible because the proposed rule change relates to DTC's existing ID system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change was developed through discussions with the PSA, acting on behalf of its members, and several participants. Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes the proposed

rule change is consistent with these requirements because it should facilitate the prompt and accurate clearance and settlement of securities transactions by enabling DTC participants to continue to confirm and affirm institutional transactions through the ID system in compliance with the additional disclosure requirements of amended Rule 10b-10.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for so approving because accelerated approval will allow DTC participants to begin utilizing the ID system to comply with the disclosure requirements of Rule 10b-10 before the expiration of the temporary exemption on November 1, 1995.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 5th Street NW., Washington, DC 20549. Copies of such filings will also be available at the principal office DTC. All submissions should refer to File No. SR-DTC-95-19 and should be submitted by November 15, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-95-19) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority:⁸

Margaret H. McFarland,
Deputy Secretary.

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⁴ The Commission has modified the text of the summaries prepared by DTC.

⁵ For a complete discussion of the amendments, refer to Securities Exchange Act Release No. 34962 (November 10, 1994), 59 FR 59612.

⁶ Letter from Catherine McGuire, Chief Counsel, Division of Market Regulation, Commission, to George P. Miller, Esq., Vice President and Associate General Counsel, PSA (September 29, 1995).

⁷ 15 U.S.C. 78q-1(b)(3)(F) (1988).

⁸ 17 CFR 200.30-3(a)(12) (1994).